

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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JONATHAN MONSARRAT,

*Plaintiff,*

v.

BRIAN ZAIGER dba  
ENCYCLOPEDIADRAMATICA.SE,

*Defendant.*

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CIVIL ACTION NO. 17-cv-10356-PBS

**MOTION TO EXTEND SCHEDULE**

NOW COMES Plaintiff-in-Counterclaim, Brian Zaiger, by and through undersigned counsel, and hereby moves for an extension of the discovery deadline pursuant to Fed. R. Civ. P. 16(b)(4). In support hereof, Mr. Zaiger states as follows:

- 1) On January 10, 2018, the Court set an amended schedule in this matter (Dkt. Nos. 85 & 86) with discovery closing April 12, 2018;<sup>1</sup>
- 2) On January 2, 2018, Plaintiff-in-Counterclaim Brian Zaiger had filed a motion to compel certain discovery responses (Dkt. No. 81), requesting that such discovery responses be provided within 14 days of the Court's decision thereon;
- 3) In response thereto, Defendant-in-Counterclaim Jonathan Monsarrat cross-moved for judgment on the pleadings (Dkt. No. 90) and moved to stay the motion to compel (Dkt. No. 92);

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<sup>1</sup> Pursuant to that order, motions for summary judgment are due one month thereafter, on May 14, 2018.

- 4) On January 31, 2018, the Court referred Dkt. Nos. 81 and 90 to Magistrate Judge Bowler (Dkt. No. 97);
- 5) On April 10, 2018, the Court set a hearing on the outstanding motions to be heard before Magistrate Judge Bowler on May 18, 2018 (Dkt. No. 125); and
- 6) Deposition of Mr. Monsarrat is currently scheduled for April 12, 2018.

A brief continuance of the discovery deadline to continue the deposition of Mr. Monsarrat until after the pending motions have been adjudicated and, if allowed, until after his compliance with any order compelling discovery. Counsel for Mr. Zaiger would likely ask Mr. Monsarrat deposition questions regarding his discovery responses in the event the Court allows the motion to compel, in whole or in part. Similarly, the forthcoming order on Mr. Monsarrat's motion for judgment on the pleadings (Dkt. No. 90) and motion to amend (Dkt. No. 93) may either limit or expand the scope of permissible discovery. Those motions will also be heard on May 18, 2018.

It would, therefore, be inefficient and burdensome on both parties to require Mr. Monsarrat to sit for a second day of deposition and even the first day of deposition may be rendered moot by a ruling awarding him judgment on the pleadings. Additionally, the parties are currently engaged in settlement discussions and both parties would like to avoid incurring the expense of deposition if they are able to resolve their dispute.

WHEREFORE Mr. Zaiger respectfully requests this Honorable Court continue the schedule to enable the deposition of Mr. Monsarrat to be taken within thirty days of the decisions on the motions to compel, to amend, and for judgment on the pleadings.

Dated: April 11, 2018

Respectfully Submitted,

BRIAN ZAIGER,  
Defendant,

By his attorneys

/s/ Jay M. Wolman

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**CERTIFICATE PURSUANT TO LOCAL RULE 7.1**

I hereby certify that counsel for Mr. Zaiger attempted to confer with counsel for Mr. Monsarrat and attempted in good faith to resolve or narrow this issue. Mr. Goren stated he was “amenable to a joint motion”, but expected to have revisions to a circulated joint motion on the morning of April 12, 2018. Counsel for Mr. Zaiger felt it prudent to file the instant motion prior to that date, despite the preference for a joint motion.

/s/ Jay M. Wolman

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**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on April 11, 2018.

/s/ Jay M. Wolman

Jay M. Wolman